IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

-

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 8106 of 2004

-

Between:

1 Chakali Sattaiah, S/o. Late Mallaiah,
R/o. Kondapur, Masid Mandal, R.R. District.
2 Chakali Lakshman, S/o. Late Mallaiah,
R/o. Kondapur, Masid Mandal, R.R. District.
3 Chakali Mallesha, S/o. Late Mallaiah,
R/o. Kondapur, Masid Mandal, R.R. District.
4 Chakali Raju, S/o. Late Mallaiah,
R/o. Kondapur, Masid Mandal, R.R. District.

..... PETITIONERS

AND

-

1 The District Collector, Lakdi-ka-pool, Hyderabad.
2 The Commissioner, Serlingampally Municipality,
Serelingampally, R.R. District.
3 The Secretary, Roads and Buildings, Secretariat,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari calling for the records on the file of the 2nd respondent in his memo letter No. G/480/2003 dt.4-3-2003 and quash the same as illegal and arbitrary and against the Art. 300.A of the Constitution of India and consequently direct the respondents to pay the compensation to the petitioners for laying the B.T. Road in the petitioners land in S.Nos.168 and 183 admeasuring Ac.5-20 gts situated at Kondapur Village Serelingampally Mandal, R.R. Dist by initiating the Land Acquisition Proceedings.

Counsel for the Petitioner: MR.V.V.N.NARAYANA RAO

Counsel for Respondent No.: GP FOR MUNCIPAL ADMN. & URBAN

DEVELOPMENT

The Court at the admission stage made the following :

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Municipal Administration and Urban Development for respondents. Both have expressed no objection for disposal of the writ petition at the admission stage.

The father of the petitioners' late Chakali Mallaiah claims to have been in occupation of the lands in S.Nos.168, 183 and 184 of Kondapur Village, Serilingampally municipality and occupancy certificate was also issued in respect of the lands to an extent of Acs.14.08 under the provisions of Inam Abolition Act (for

short ‘the Act’). After the death of Chakali Mallaish ownership rights were transferred in favour of the petitioners under the said Act. It is the case of the petitioners that the second respondent laid 80 feet wide B.T road passing through their land in S.No.183 and 168 in the year 1991, without following due procedure contemplated under the law. Under the said process, the petitioners deprived of their land to an extent of Acs.3.27, highhandedly and in violation of Articles 300-A of the Constitution of India. Again in the year 2001, the second respondent proposed to widen the existing above said Madapur Lingampally road for formation of 120 BT Road without initiating any proceedings for acquiring the land belonging to the petitioners. The same is arbitrary and illegal. The petitioners made a representation on 20-10-1998 for payment of compensation. As no action was forthcoming he filed writ petition No.1374 of 2003, which was disposed of with a direction to pass appropriate orders on the representation and which led to passing the impugned memo dated 4-3-2003 with all baseless and irrelevant allegations saying that payment of compensation to the existing roads which were strengthened by the Municipality does not arise presently.

In the counter affidavit filed by the second respondent it is stated that the respondents have laid CC/BT roads on the existing roads due to wear and tear and increased flow of traffic on the road in question. As a matter of fact, the present width of road is less than the road laid initially and the road margins have also been narrowed down. In view of the same proposals to widen the width of the road from the existing road 20 metres to 30 metres. But the proposals have not taken the shape of implementation and still in initial stages. As and when the Municipality takes a final decision to widen the road and takes up the work, it will follow the due procedure for acquiring the lands and wherever private land is acquired suitable compensation will be paid as per the Land Acquisition Act.

Learned counsel for the petitioners submits that the existing road was laid in the year 1991, which passes through the petitioners’ land for which they have not paid any compensation. The action of the respondents is in violation of Articles 14, 21 and 300-A of the constitution of India.

In the impugned memo itself it is categorically stated that the petitioners have made a layout in S.No.168 and 183 of Kondapur Village and disposed all the plots and structures have already come up in this layout. As per the zonal development

plan sanctioned by the Government vide G.O.Ms.No.353 MA HMA & UD Department, dated 30-5-1980 the existing 20 mts., road leading from Kothaguda to Kondapur and up to Hyderabad Central University depot has been proposed and approved as 30 mts., wide. But there exists 12 mts., to 20 mts., wide road and the Municipality has strengthened the existing roads by laying CC/BT in between the existing houses. The Municipality has not taken up the road widening programme as per the zonal development plan sanctioned by the Government, but, proposed improvements to existing road only. The petitioner denied the said allegation that they have obtained layout in Sy.No.168 and 183 by making plots.

Be that as it may, the fact remains that there is an existing road which passes through the lands of the petitioner and which was shown as 20 mts., road. But as per the zonal development plan sanctioned in G.O.Ms.No.353 dated 30-5-1980 the Government sanctioned 30 mts., to that of the said 20 mts., road. The claim of the municipality that the road has already in existence and no land as such is acquired from the petitioner for laying CC/BT road in between the existing houses is a disputed question of fact, which cannot be resolved in a summary manner exercising the inherent jurisdiction under Article 226 of the Constitution of India, since the second respondent-municipality stated that as and when the 20 mts., existing road is widened to 30 mts., necessary procedure will be followed for acquiring the lands of the petitioner, if it is affected by such road widening. The same is placed on record.

In view of the same, it is open for the petitioners to move the Civil Court and can establishing that the road was laid in the year 1991 through their land and which was not in existence earlier and can claim appropriate relief for compensation and it is for the Civil Court to consider the claim of the petitioners and pass appropriate orders in accordance with law.

With the above direction, the Writ Petition is disposed of at the admission stage.

_____

A. Gopal Reddy, J.

21st September, 2004.

Js.

ASSISTANT REGISTRAR

To

1 The District Collector, Lakdi-ka-pool, Hyderabad.
2 The Commissioner, Serlingampally Municipality, Serelingampally, R.R. District.
3 The Secretary, Roads and Buildings, Secretariat,

Hyderabad.

4 2 CCs to G.P. for Municipal Administration & Urban

Development, High Court Buildings, Hyderabad.

5 2 CD copies.